IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

SECOND APPEAL NO. 411 OF 2007

Nathuji Dayaram Kesalkar vs. Shrawan Dayaram Kesalkar & Anr.

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI, J.
NOVEMBER 01, 2007.

Heard Shri Dhole, learned counsel for the appellant – original plaintiff.

The challenge is to the concurrent judgments and decrees delivered by Courts below dismissing the suit filed by present appellant for declaration that four shops adjacent to his house belong to him and are in his possession. The mutation entry taken by Municipal Council, Bhandara, is stated to be the cause of action for filing suit. The Courts have found that there was mutual partition deed between appellant and respondent No.1 and on the basis of said partition deed, two shops have been mutated in the name of Respondent No.1. The appellate Court has in fact reproduced the said clause in partition

deed in para 8 while giving reasons for dismissing the appeal.

Shri Dhole, learned counsel contends that the land below two shops continued to belong to present appellant and this fact has been lost sight of by both the Courts below. However, perusal of partition deed as also the reasoning given by the Courts below clearly show that there was no such arrangement or agreement between the parties.

In the circumstances, no substantial question of law arises in the Second Appeal. Second Appeal is dismissed. No order as to costs.

JUDGE

*GS.